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NSC-10 P-03 RSC-01 PRS-01 SS-14 USIA-12 IO-11 UPW-01
RSR-01 /086 W

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P R 121133Z AUG 71
FM AMEMBASSY SAIGON
TO SECSTATE WASHDC PRIORITY 8585
INFO AMEMBASSY BANGKOK
CINCPAC
AMCONSUL DANANG UNN
USDEL FRANCE
AMEMBASSY PHNOM PENH
AMEMBASSY VIENTIANE

C O N F I D E N T I A L SECTION 1 OF 2 SAIGON 12887

CINCPAC FOR POLAD

SUBJ: KY PROTESTS AUGUST 5 ELIMINATION OF CANDIDACY BUT DOES NOT APPEAL

REF: A. SAIGON 12663
B. SAIGON 12822

1. SUMMARY AND INTRODUCTION. AT A PRESS CONFERENCE AUGUST 12 IN INDEPENDENCE PALACE, VICE PRESIDENT KY IN MUTED AND SOMEWHAT AMBIGUOUS TERMS PROTESTED THE AUGUST 5 RULING BY THE OFFICE OF THE SUPREME COURT (STANDING COMMITTEE) TEMPORARILY ELIMINATING HIS PRESIDENTIAL CANDIDACY, BUT INDICATED THAT HE WOULD NOT BEGIN UNDERLINE FORMALLY END UNDERLINE APPEAL THE DECISION. IN ESSENCE, KY ARGUED THAT AS A CANDIDATE HE HAS A CONSTITUTIONAL RIGHT TO A REVIEW BY THE FULL SUPREME COURT WITHOUT THE NEED OF AN APPEAL. A SUIT BY A KY SUPPORTER IS, HOWEVER, FORCING THE COURT TO ADDRESS THE QUESTION, ALTHOUGH THERE NOW APPEARS LITTLE CHANCE KY WILL BE QUALIFIED. END SUMMARY.

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY Joan Izuberg DATE 1/26/82
RDS ☐ or XD. ☐ EXT. DATE
TS AUTH. REASON(S)
ENDORSE EXISTING MARKINGS ☐
DECLASSIFIED ☑ RELEASABLE ☑
RELEASE DENIED ☐
PASAGON EXCISIONS

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2. IN HIS FORMAL STATEMENT AT THE BEGINNING OF THE PRESS CONFERENCE, KY DECLARED THAT THE FIRST POSTING OF CANDIDATES WAS "CONTRARY TO THE LAW AND ARBITRARY" ON TWO GROUNDS: "1. THAT THE OFFICE OF THE SUPREME COURT DOES NOT HAVE ANY POWER TO REVIEW THE CONTENTS AND TO ASSESS THE VALIDITY OF THE DOCUMENTS OF THE CANDIDATES' DOSSIERS. THIS JURISDICTION BELONGS TO THE GENERAL ASSEMBLY OF THE SUPREME COURT IN ITS FUNCTION OF COMPILING THE LISTS OF CANDIDATES ACCORDING TO ARTICLE 54 OF THE CONSTITUTION AND ARTICLE 46 OF THE LAW NO. 7/68 ESTABLISHING THE SUPREME COURT ITSELF. 2. THAT THE OFFICE OF THE SUPREME COURT HAS ESTABLISHED THAT THE SUPREME COURT CAN REVIEW OUR DOSSIER ONLY IF THE KY-LE SLATES MAKES AN APPEAL. WE INSIST THAT THERE IS NO LEGAL BASIS WHICH PERMITS THE OFFICE OF THE SUPREME COURT TO DECIDE IN SUCH AN ARBITRARY AND ILLEGAL MANNER."

3. KY SAID ACCORDINGLY "WE CATEGORICALLY PROTEST AND DECLARE THAT WE REJECT THE VALIDITY OF THE FIRST POSTING OF PRESIDENTIAL CANDIDATES AUGUST 5." CONCLUDING HIS PREPARED REMARKS, KY DENOUNCED "THE UNDEMOCRATIC ACTIONS OF PRESIDENT THIEU IN USING THE HIGHEST JUDICIAL ORGAN FOR THE UNWORTHY PURPOSE OF ASSITING IN A FRAUDULENT ELECTION."

4. ANSWERING REPORTERS' QUESTIONS, KY DECLARED (ACCORDING TO NOTES TAKEN BY EMBOFF WHO WAS PRESENT AT PRESS CONFERENCE) THAT HE IS STILL FOLLOWING A LEGAL STRUGGLE, BUT AVOIDED A DIRECT RESPONSE AS TO WHETHER HE WOULD APPEAL OR WITHDRAW. HE EMPHASIZED THAT HIS STATEMENT REFERRED ONLY TO THE ILLEGALITY OF THE AUGUST 5 RULING. IMPLYING THAT AN APPEAL WAS UNNECESSARY, HE ACKNOWLEDGED THAT HE HAD ADOPTED A "WAIT AND SEE POLICY". KY SAID THAT "IT'S NOW UP TO THE SUPREME COURT TO TAKE ACTION."

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P R 121133Z AUG 71
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C O N F I D E N T I A L SECTION 2 OF 2 SAIGON 12887

5. COMMENTING ON GENERAL MINH'S CANDIDACY, KY STATED THAT "MINH WOULD HAVE NO CHANCE TO WIN" IN A TWO-MAN RACE AND RECALLED CONVERSATIONS IN WHICH MINH REPORTEDLY TOLD KY THAT "THERE WOULD BE NO REASON" FOR HIM TO RUN IF KY HIMSELF COULD NOT BE A CANDIDATE. KY ALSO STATED THAT HE WOULD STAY COMPLETELY OUT OF THE ELECTIONS IF HE WERE NOT A CANDIDATE (IMPLYING THAT HE WOULD NOT THROW HIS SUPPORT TO MINH).

6. KY ACCUSED PRESIDENTIAL PRESS SECRETARY HOANG DUC NHA OF DELIBERATELY SEEKING TO DIVIDE THE ARMED FORCES BY HIS RECENT STATEMENT (REF A) CREDITING KY WITH CONTROL OVER ONLY ONE AIR DIVISION. KY ALSO CHARGED THAT NHA WAS RESPONSIBLE FOR RUMORS ABOUT A POSSIBLE PREEMPTIVE COUP D'ETAT AGAINST KY'S SUPPORTERS. HE ASSERTED THAT NHA THUS WAS ATTEMPTING TO "DIVERT PUBLIC ATTENTION FROM THE FRAUDULENT ELECTION PRACTICES," AND "TO PROVIDE AN EXCUSE TO OPPRESS THE OPPOSITION." KY DENIED THAT HE HAS OPENLY SPOKEN OF A COUP D'ETAT (AND ADDED IN RESPONSE TO PERSISTENT QUESTIONING THAT IF HE HAD ONE IN MIND HE WOULD CERTAINLY NOT ANNOUNCE IT AT A PRESS CONFERENCE). HE NOTED, HOWEVER, THE POSSIBILITY OF A "POPULAR UPRISING" IF THE COUNTRY'S LEADERS WERE NOT HONESTLY CHOSEN.

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7. KY DESCRIBED AS "ABSOLUTELY GROUNDLESS AND WRONG" CURRENT RUMORS THAT AMBASSADOR BUNKER HAD PROMISED TO ASSIST KY'S PRESIDENTIAL CANDIDACY. KY DENIED THAT HE HAD DISCUSSED THE MATTER OF ASSISTANCE BEFORE THE AMBASSADOR'S DEPARTURE FOR WASHINGTON CONSULTATIONS, STATED THAT HE WOULD NOT ACCEPT AMERICAN INTERFERENCE IN VIET-NAM'S INTERNAL AFFAIRS, AND NOTED THAT HE WOULD REJECT ANY EFFORTS BY THE AMBASSADOR ON HIS BEHALF.

8. KY ALSO STATED HE STILL RECOGNIZES THAT CONTINUED AMERICAN SUPPORT IS NECESSARY FOR VIET-NAM'S SURVIVAL AND ADDED AN EXTENSIVE COMMENT ACKNOWLEDGING AMERICAN SACRIFICES IN VIET-NAM AND EXPRESSING GRATITUDE FOR AMERICAN ASSISTANCE.

9. COMMENTING ON THE FORTHCOMING LOWER HOUSE ELECTIONS, KY ALLEGED THE RESULTS HAVE ALREADY BEEN DETERMINED AND THAT ALL LEVELS OF THE ADMINISTRATION HAVE RECEIVED ORDERS TO ASSURE THE VICTORY OF PARTICULAR GOVERNMENT CANDIDATES.

10. COMMENT: KY'S COMMENTS WERE UNCHARACTERISTICALLY RESTRAINED AND APPEARED INTENDED TO PROMOTE HIS IMAGE AS A LONG SUFFERING POLITICAL MARTYR. KY APPEARS TO BE ATTEMPTING TO PROLONG THE CONTROVERSY AND THEREBY ADD AS MUCH FIRE AS POSSIBLE TO THE CRITICISM WHICH THE INTERNATIONAL PRESS AND A CONSIDERABLE SECTOR OF LOCAL OPINION IS HEAPING ON PRESIDENT THIEU FOR THE WHOLE BUSINESS OF KY'S "ELIMINATION". WHILE KY DID NOT EXPLICITLY EXCLUDE THE POSSIBILITY OF A FORMAL APPEAL TO THE AUGUST 5 RULING, THE IMPLICATIONS OF HIS REMARKS MAKE SUCH ACTION UNLIKELY.

11. A FORMAL APPEAL APPEARS IN ANY EVENT REDUNDANT AS THE SUPREME COURT HAS AGREED TO DECIDE ON AUGUST 19 A SEPARATE SUIT FILED BY A KY SYMPATHIZER WHICH RAISES KY'S VERY ARGUMENT - THAT THE CONSTITUTION REQUIRES A REVIEW OF CANDIDATES' QUALIFICATIONS BY THE ENTIRE SUPREME COURT (REF B). THUS THE KY CANDIDACY STILL IS BREATHING, BUT THE CASE LOOKS TERMINAL.
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